IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

FRIDAY, THE 6TH JULY 2007 / 15TH ASHADHA 1929

WP(C).No. 7814 of 2004(E)

PETITIONERS:

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1. K.V.CHANDRAN, AGED 36 YEARS,
   S/O. K.K.VASUDEVA MANNADIAR, TEA MAKER,
   DEPARTMENTAL CANTEEN/PALGHAT MAIN TELEPHONE
   EXCHANGE, PALGHAT, RESIDING AT KOTHIL HOUSE,
   OLD BAZAR, KOTHANGODE, PALGHAT DISTRICT.

2. V.BALASUBRAMANIAN, AGED 21 YEARS,
   S/O. VELAYUDHAN, SUPPLIER, DEPARTMENTAL CANTEEN/
   PALGHAT MAIN TELEPHONE EXCHANGE, PALGHAT,
   RESIDING AT "PUSHPA NIVAS", THEKKETHARA,
   KOLLENGODE, PALGHAT DISTRICT.

3. R.VIJAYAN, AGED 34 YEARS,
   S/O. RAJAN MANNADIAR, DEPARTMENTAL CANTEEN/
   PALGHAT MAIN TELEPHONE EXCHANGE, PALGHAT,WASH BOY,
   RESIDING AT NO.49/336, JAINI MELU,
   VADAKKANTHARA P.O., PALGHAT.

4. K.BALASUBRAMANIAN, AGED 50 YEARS,
   S/O. RAMAN KUTTY NAIR, CHIEF COOK, DEPARTMENTAL
   CANTEEN/PALGHAT MAIN TELEPHONE EXCHANGE, PALGHAT,
   RESIDING AT KULANGARA HOUSE, KINAVALLUR,
   PARALI P.O., PALGHAT.

5. R.VALSAN, AGED 37 YEARS,
   S/O. RAMAKUTTY MANNADIYAR, ASSISTANT COOK,
   DEPARTMENTAL CANTEEN/PALGHAT MAIN TELEPHONE
   EXCHANGE, PALGHAT, RESIDING AT "CRATTE HOUSE",
   OLD BAZAR, KOLLANGODE, PALGHAT DISTRICT.

BY ADV. SRI.T.C.GOVINDA SWAMY
SRI.K.M.ANTHRU
SRI.MANNATIL KUMAR
SMT.D.HEERA

RESPONDENTS:

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1. THE CHAIRMAN & MANAGING DIRECTOR,
   BHARATH SANCHAR NIGAM LTD., NEW DELHI.

2. THE CHIEF GENERAL MANAGER (TELECOMS),
BHARATH SANCHAR NIGAM LTD., KERALA CIRCLE,
TRIVANDRUM.

3. THE DIVISIONAL ENGINEER, GENERAL,
TELEPHONE EXCHANGE, BHARATH SANCHAR NIGAM, LTD.,
PALAKKAD.

4. SRI.GOPINATHA MENON,
DEPARTMENTAL CANTEEN, PALAKKAD MAIN TELEPHONE
EXCHANGE, BSNL, PALAKKAD.

BY ADV. SRI.C.S.RAMANATHAN, SC, BSNL
MATHEWS K. PHILIP, SC FOR BSNL.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 06/07/2007 , THE COURT ON 06/07/2007 DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: COPY OF THE OFFICE MEMORANDUM BEARING NO.12/5/1991- DIR © DTD. 29.1.1992 ISSUED IN THIS REGARD BY THE DEPARTMENT OF PERSONNEL AND TRAINING.

EXT.P2: COPY OF INITIAL CONTRACT AGREEMENT GIVEN IN FAVOUR OF THE FIRST PETITIONER.

RESPONDENT'S EXHIBITS:

EXT.R3(a): COPY OF THE ORDER DTD.5.7.1996.

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// TRUE COPY//

P.S. TO JUDGE.

THOTTATHIL B. RADHAKRISHNAN, J.

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WP(C).No.7814 OF 2004-E

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Dated this the 6th day of July, 2007.

JUDGMENT

The petitioners seek regularisation in service by contending that they are employees of non-statutory canteen and therefore, entitled to the benefit of Ext.P1 issued on 29-1-1992 on the basis of the directions of the Apex Court in the proceedings referred to in paragraph 2 of Ext.P1. The petitioners have produced Ext.P2 agreement entered into between the first petitioner and the Divisional Engineer which would show that the first petitioner had entered into a contract for supply of labourers at the rate of Rs.103/- per labourer per day. In the counter affidavit it is specifically stated that the canteen is being run on works contract basis

and that the second petitioner had the work contract at a daily rate of Rs.440/- and subsequently at Rs.540/- per day. One Sri.Govindankutty Menon is now having the work at Rs.475/- per day. The first petitioner had quoted Rs.105/- per labourer for two laps referred to in paragraph 4 of the counter affidavit. The second petitioner had quoted the lowest rate as stated in paragraph 5 of the counter affidavit.

2. There is no reply affidavit on record.

The facts disclosed in the counter affidavit corroborated by Ext.P2 clearly show that the petitioners are not entitled to claim that they are workmen or that they are employed in the canteen. Ext.P1 does not apply to govern the situation. The writ petition fails. The same is accordingly dismissed.

THOTTATHIL B. RADHAKRISHNAN,
Sha/- **JUDGE.**